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Message Text

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ACTION NEA-10

INFO OCT-01 ISO-00 NEAE-00 PRS-01 SCS-06 HA-05 L-03
H-01 CA-01 USIE-00 CIAE-00 INR-07 NSAE-00 PA-01
INRE-00 SSO-00 /036 W
----------109709 231840Z /45
O R 231748Z JAN 78
FM AMEMBASSY TEL AVIV
TO SECSTATE WASHDC IMMEDIATE 785
INFO AMCONSUL JERUSALEM

C O N F I D E N T I A L TEL AVIV 1027

E. O. 11652: GDS
TAGS: CASC (ESMAIL, SAMI) PINS IS
SUBJ: CAMPAIGN IN US TO AID SAMI ESMAIL

REFS: (A) STATE 17259, (B) 77 TEL AVIV 11103, (C) 77 TEL AVIV 11308

1. EMBASSY REMAINS UNCONVINCED THAT ON BASIS EVIDENCE AVAILABLE TO US TREATMENT ACCORDED SAMI ESMAIL DURING DETENTION WAS SUFFICIENTLY HARSH TO WARRANT FORMAL PROTEST TO THE ISRAELI GOVERNMENT. FOLLOWING THE INITIAL VISIT WITH SAMI ON DEC 25, 1977, (REF B) EMBASSY REPORTED "THAT ESMAIL HAD COMPLAINED OF CONTINUAL QUESTIONING OVER AN EXTENDED PERIOD OF TIME AND THAT AT ONE POINT HIS HAIR WAS PULLED AND HE WAS MADE TO STAND WITH A CHAIR OVER HIS HEAD. THE POLICE OFFICER IN CHARGE WAS INFORMED THAT ANY UNREASONABLE INTERROGATION PRACTICES WOULD BE PROTESTED BY THE EMBASSY. THERE WAS NO EVIDENCE OF MISTREATMENT OR DENIAL OF HUMAN RIGHTS." SAMI WAS PRESENT WHEN THE POLICE OFFICER IN CHARGE WAS WARNED BY VICE CONSUL DAVISON CONCERNING FUTURE INTERROGATION PRACTICES (REF 77 TEL AVIV 11103). THIS ORAL WARNING WAS ACCEPTED WITHOUT COMMENT BY ISRAELI PRISON OFFICIAL. THE SUBSEQUENT SWORN STATEMENT GIVEN BY SAMI ON DEC 30, 1977, DOES NOT ALTER THE EMBASSY'S VIEW THAT THE TREATMENT OF SAMI
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DURING INTERROGATION DOES NOT CONSTITUTE A BASIS FOR PROTEST.

2. WE RECOMMEND THAT THE DEPARTMENT, AFTER SATISFYING ITSELF AS TO THE LACK OF SUFFICIENT CAUSE FOR FORMAL PROTEST, SO INFORM BASSIM ESMAIL. IT SHOULD BE MADE CLEAR TO BASSIM THAT PUBLIC PRESSURE DOES NOT CONSTITUTE GROUNDS ON WHICH TO MAKE UNJUSTIFIED PROTEST AGAINST

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A FOREIGN GOVERNMENT AS A MEANS TO ASSIST A US CITIZEN ARRAIGNED BEFORE A FOREIGN COURT. IF THE SITUATION WARRANTS, SAMI'S SWORN STATEMENT MIGHT BE MADE PUBLIC.

3. EMBASSY RESPONSES TO ALLEGATIONS SET OUT IN PARA FIVE OF REFTEL A ARE AS FOLLOWS:

A. CONSUL KERR HAD ARRANGED WITH THE NATIONAL POLICE TO BE NOTIFIED ON DECEMBER 25 AS TO THE TIME AND PLACE FOR AN INTERVIEW WITH SAMI ESMAIL. KERR CAME DOWN WITH THE FLU ON DECEMBER 24 AND UPON NOTIFICATION BY THE NATIONAL POLICE ARRANGED FOR VICE CONSUL MARK DAVISON AND FSL WEISS TO VISIT SAMI AT PETAH TIKVA PRISON. AS HE HAD NOT BEEN INSTRUCTED BY KERR, DAVISON TELEPHONED IMMEDIATELY AFTER THE INTERVIEW WITH SAMI. ESMAIL HAD KERR'S HOME TELEPHONE NUMBER BUT DID NOT TELEPHONE HIM ON DECEMBER 25.KERR CALLED DAVISON ON DEC 26 AND ASKED HIM TO BRING BASSIM UP TO DATE ON HIS BROTHER'S CONDITION WHICH DAVISON DID IN A 30-45 MINUTE PHONE CALL FROM HIS PRIVATE RESIDENCE TO ESMAIL IN RAMALLAH.

B. FOLLOWING THE CHRISTMAS DAY MEETING WITH SAMI AT PETAH TIKVA PRISON, WHICH LASTED FROM 5:30 UNTIL APPROX 6:30 PM, FSL WEISS ATTEMPTED UNSUCCESSFULLY TO CONTACT ATTORNEY LANGER AT HER JERUSALEM
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OFFICE AND HER HOME IN TEL AVIV. MR WEISS FINALLY REACHED ATTORNEY LANGER AT HER HOME BETWEEN 8-8:30 AM ON DECEMBER 26. ATTORNEY LANGER DID NOT INDICATE TO ANYONE AT THE EMBASSY THAT SHE WAS UNABLE TO GAIN ADMITTANCE TO PETAH TIKVA PRISON UNTIL SHE AND BASSIM CALLED TOGETHER AT THE EMBASSY ON DEC 27. THEY REQUESTED EMBASSY ASSISTANCE IN ARRANGING FOR THE ATTORNEY AND BASSIM TO VISIT SAMI AND PERMISSION FOR SAMI TO VISIT HIS DYING FATHER AT RAMALLAH. IN THEIR PRESENCE CONSULAR ASSISTANT WEISS IMMEDIATELY INITIATED ARRANGEMENTS FOR ATTORNEY LANGER TO VISIT THE PRISONER AT 4 PM ON THE SAME DATE (DEC 27). PERMISSION WAS CANCELLED SHORTLY THERE-AFTER BY CHIEF SUPERINTENDENT SAVIR, AS HE CLAIMED TO HAVE PRESSING ACTIVITIES ELSEWHERE WHICH WOULD PREVENT HIS ATTENDANCE AT AN INTERVIEW UNTIL THE FOLLOWING DAY (DEC 28). ARRANGEMENTS WERE ALSO COMPLETED BY MR WEISS DURING THE LANGER/ ESMAIL 2 1/2 HOUR VISIT TO THE EMBASSY DEC 27 FOR SAMI TO VISIT HIS DYING FATHER AT RAMALLAH ON THE 28TH.

C. THE EMBASSY DID NOT AND DOES NOT CONSIDER SAMI'S ALLEGA-TIONS OF MISTREATMENT SUFFICIENT TO WARRANT A PROTEST. FYI. SEE TEL AVIV 11103 (77) PARA 16 ON ORAL WARNING AGAINST

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MISTREATMENT OR DENIAL OF HUMAN RIGHTS. END FYI. WE ASSUME
THAT A MAJOR EFFORT WILL BE MADE BY THE DEFENSE TO HAVE
THE CONFESSIONS SUPPRESSED BY VIRTUE OF THEIR HAVING BEEN
OBTAINED UNDER DURESS. A CAREFUL READING OF SAMI'S SWORN
STATEMENT OF DEC 30 DOES NOT INDICATE "SEVERE PAIN OR
SUFFERING" OR "AGGRAVATED AND DELIBERATE FORMS OF CRUEL IN-
HUMAN AND DEGRADING TREATMENT" AS SET FORTH IN THE UN GENERAL
ASSEMBLY DECLARATION OF SEPT 9, 1975, ON THE PROTECTION OF
ALL PERSONS FROM TORTURE AND OTHER CRUEL AND INHUMAN OR
DEGRADING TREATMENT OR PUNISHMENT. WHEN BASSIM LEARNED ON
DEC 29 THAT AN EMBASSY PROTEST MUST AWAIT CONFIRMATION OF
ABUSE BY SAMI, HE SUGGESTED THAT HE AND THE FAMILY WOULD
UNDERTAKE TO PROTEST SAMI'S MISTREATMENT. CONSUL KERR
ADVISED HIM AT THAT TIME TO CONSULT HIS ATTORNEY BEFORE
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INITIATING A PROTEST ON THE GROUNDS IT MIGHT INDEED
WORSEN THE SITUATION FOR SAMI. CONSUL KERR DOES NOT RECALL
AMPLIFYING IN ANY WAY TO BASSIM THE GROUNDS FOR THIS ADVICE.

D. THE TEXT OF SAMI'S SWORN STATEMENT OF DEC 30 HAS BEEN
TELEGRAPHED TODAY. REF C INCLUDED THE ESSENCE OF SAMI'S
STATEMENT AND ORIGINAL WAS AIRPOUCHED TOGETHER WITH BASSIM'S
LISTING AND LANGER'S LETTER VIA TEL AVIV'S A-5, DTD JAN 16,
1978. DELAY WAS INADVERTENT. AIRGRAM DICTATED BY KERR EARLY
JAN, BUT DUE CLERICAL OVERSIGHT AND LACK FOLLOW-UP NOT
POUCHED UNTIL JAN 16.

4. ISRAELI EMBASSY OFFICER MAY HAVE CONFUSED WRITTEN PER-
MISSION UNDER THE PRIVACY ACT FOR AN ADDITIONAL STATEMENT
BY SAMI. THE ONLY STATEMENT OTHER THAN THE PRIVACY ACT SIGNED
BY SAMI IS HIS SWORN STATEMENT OF DEC 30, 1977.

5. IMMEDIATELY FOLLOWING SAMI'S JAN 20 HEARING CONSULAR
OFFICERS REQUESTED FROM ATTORNEY LANGER COPIES OF SAMI'S
ENGLISH AND HEBREW CONFESSIONS. SHE STATED, HOWEVER, THAT
SHE WOULD HAVE TO OBTAIN PERMISSION FROM HER CLIENT BEFORE
RELEASING THE CONFESSIONS TO THE EMBASSY. ATTORNEY LANGER
HAS PROMISED TO CONTACT THE EMBASSY AS SOON AS SAMI'S PER-
MISSION OBTAINED. LANGER HAS HOME TELEPHONE NUMBER OF
CONSUL AND CONSULAR ASSISTANT. WE ATTEMPTED WITHOUT SUCCESS
TO REACH HER TODAY BUT WILL CONTINUE OUR EFFORTS. EMBASSY
WILL CABLE CONFESSIONS TO THE DEPARTMENT AS SOON AS THEY CAN
BE OBTAINED. LEWIS

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